

Human Rights and



Paraguayans participating in multinational exercise.

1st Combat Camera Squadron (David L. Wilcoxson)

Military Conduct

A Progress Report

By GEORGE R. VICKERS

Increased awareness of human rights over the last thirty years has led to new standards for state actors in peace and war. Human rights concerns have been particularly salient in the Western Hemisphere, where military dictatorships overthrew

civilian regimes in much of the Southern Cone and Andes in the 1960s and 1970s, and where U.S. policies supported regimes in Central America that were opposed by Marxist-inspired guerrillas during the 1980s.

Fresh Start Strategies

Since the Cold War, democratic governments have promoted constitutional reforms aimed at subordinating the military to civilian control and

George R. Vickers is executive director of the Washington Office on Latin America and coauthor of *Democracy Weakened? The October 20, 1996, Nicaraguan Elections*.

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 2000		2. REPORT TYPE N/A		3. DATES COVERED -	
4. TITLE AND SUBTITLE Human Rights and Military Conduct: A Progress Report				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Center for Counterproliferation Research National Defense University Washington, DC 20319-5066				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release, distribution unlimited					
13. SUPPLEMENTARY NOTES The original document contains color images.					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT UU	18. NUMBER OF PAGES 7	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			



Argentine soldiers
at checkpoint,
Cabanas '00.

55th Signal Company (Albert Eaddy)

preventing human rights abuses. Latin American militaries have also undergone a self-examination to adapt their roles and missions to the changing strategic environment. By and large

democratic transition in many nations removed the armed forces from internal security operations

they have endorsed democratic principles and human rights. At the first Defense Ministerial of the Americas in 1995, representatives reviewed a commitment by the armed forces to remain subordinated to civilian authority, act within constitutional bounds, and respect human rights.

Reflecting changes in national security strategy, the U.S. military has played a critical role in promoting democracy and human rights. While Cold War strategy was dominated by deterring communist expansion and nuclear war, the strategy of engagement and enlargement proclaimed by the Clinton administration stressed enhanced security, prosperity at home, and democracy abroad. Rooted in a belief that there is an affinity between democratic systems and free market economies, and that democratic states are less likely to go to war with each

other, this strategy aimed to ensure that regimes consolidate democratic institutions and increase respect for human rights.

The incorporation of democracy and human rights as national security policy objectives has been accompanied by operational changes in the role and mission of the forces deployed in the hemisphere. Human rights training has been intensified and efforts to reform military justice in Latin America have been introduced.

While these initiatives have lowered the decibel level between human rights advocates

and the military, there is no consensus on their effectiveness. Two crucial dilemmas arise in attempting to harmonize such efforts with other objectives. First, training has met obstacles that limit its impact. The backgrounds of many militaries have afforded them considerable freedom from civilian control while portraying them as guarantors of the state. Moreover, a legacy of repression and dictatorship continues to polarize societies and inhibit civil-military relations.

Another dilemma involves threats such as drug trafficking, organized crime, and terrorism. In most mature democracies responsibility for dealing with such threats falls to civilian institutions. But in much of the hemisphere these challenges have overwhelmed new democratic governments, leading to a call for the military to play a central role. The democratic transition in many nations removed the armed forces from internal security operations; thus human rights organizations and democracy activists fear that proposed roles and missions will reinforce

impunity and lead to a return to violations. The distinct historical and cultural contexts from which Latin American militaries have emerged make it difficult to transfer practices developed within the unique U.S. experience.

Evolving Programs and Policies

Since the 1950s the U.S. Armed Forces have been provided with a modicum of training on the laws of war. Alleged abuses during the Vietnam War forced a reexamination of human rights training. After the investigation of the My Lai incident by the Peers Commission, a DOD directive issued in 1974 required all military personnel to receive training in the laws of war commensurate with their responsibilities. Moreover, exercises were modified to convey the laws of war requirements such as introducing civilians into battlefield scenarios.

U.S. Southern Command (SOUTHCOM) did not have guidance on training until 1990 when the Commander in Chief, Southern Command (CINCSOUTH), General Maxwell Thurman, USA, issued a policy memo. It required all personnel to undergo awareness training, investigate and report alleged abuses, and influence host countries to obey internationally accepted norms. In addition, it prescribed responsibilities for unit commanders, military assistance groups, and SOUTHCOM staff elements. When General George Joulwan, USA, became CINCSOUTH, he supplemented the memo with a video presentation that unequivocally laid out responsibilities for reporting violations and emphasized that the command mission included human rights.

Subsequent CINCs have reenforced education within SOUTHCOM. Under General Barry McCaffrey, USA, a steering group was established to provide advice on human rights and ensure policy implementation. During his tenure the command also prepared a pocket-sized reference card summarizing standing orders and reporting procedures. Human rights organizations were invited to observe training. General Wesley Clark, USA, continued these programs as CINCSOUTH.

Chileans searching for sniper during exercise.



55th Signal Company (Cory Montgomery)

The Armed Forces began inserting specific human rights training into programs designed for Latin America in the early 1990s. The 7th Special Forces Group, for example, issued its own guidance. In addition to requiring training for all personnel involved in mobile training teams and deployment training, it required instruction to foreign personnel “if consistent with mission and/or training requirements/objectives.”

For decades the main U.S. facility for influencing military personnel from the region was the School of the Americas in Panama. The curriculum did not include formal instruction even after the school was relocated to Fort Benning in 1984. Although human rights issues were treated peripherally in counterinsurgency training, it was not until 1991 that the curriculum was revamped when a policy memo stated, “The School of the Americas systematically advocates human rights. To this end, instructional materials in all courses will stress respect for human rights as indispensable to successful military operations.”

Congress approved funds beginning in fiscal year 1991 to expand the international military education and training program to promote instruction for foreign civilian and military

officials in, among other things, “creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights.”

In a speech delivered at the School of the Americas in August 1994, McCaffrey stressed the responsibility of commanders to ensure respect for human rights and outlined measures to prevent abuses, which included:

- zero tolerance of abuse and punishment of violators
- effective training
- clear written rules of engagement
- treating soldiers with respect
- leading by example
- controlling troops
- recognizing honorable conduct.

McCaffrey also instituted an annual conference in conjunction with the Interamerican Institute on Human Rights. The first was held in 1996 and brought together senior military and civilian leaders from the region as well as representatives of human rights organizations to discuss “the role of the armed forces in the protection of human rights.” The agenda focused on obligations of the military under different international covenants and pertinent training in the armed forces.

Although the conference allowed representatives of national organizations to interact with high-ranking officers from their countries, participants from both sides suggested greater focus on incorporating human rights issues in operational training exercises and developing more pragmatic and mission-related arguments for respecting them.

SOUTHCOM sponsored a working group in 1997 composed of representatives of various international and regional organizations and officials with responsibility for human rights training. It produced a consensus document that specified objectives for doctrine, education and training, internal control systems, cooperation with external control systems, and the delineation of police and military functions.

Deliberations highlighted possibilities and difficulties of reaching a consensus between civil and military representatives on advancing human rights. On the positive side, a relatively detailed consensus was forged during the two-day meeting. At the same time there were major differences over priorities. Military officers stressed education and training as key to improving performance. They acknowledged the importance of incorporating support for democracy and respect for human rights in doctrine. Civilian participants, on the other hand, emphasized the need for both internal and external control mechanisms to ensure accountability for violations.

General Charles Wilhelm, USMC, became CINCSOUTH prior to the meeting in 1998 that sought to develop a consensus on criteria for measuring performance. Wilhelm suspended this effort in favor of technical assistance to reform codes of military justice and human rights training. From 1997 to 2000 such assistance was provided to Colombia, Paraguay, Peru, and Venezuela.

Message Received?

Efforts to promote human rights in Latin American militaries in the 1990s came at a time of civil-military tension in many countries. In the aftermath of long periods of military dictatorship in Argentina and Chile, for example, and after the end of civil conflict in El Salvador and Guatemala,

Bolivians unloading relief aid, Cabanas '00.



55th Signal Company (Cory Montgomery)

investigating past human rights violations met stiff resistance from militaries in the region, which argued that their mandated mission to counter internal threats legitimized and justified

investigating past human rights violations met stiff resistance from militaries in the region

intervention. Moreover, unlike the United States and Western Europe in the wake of World War II, codes in Latin America required military personnel to obey orders regardless of their legality.

Countering such arguments, human rights and other groups held that excesses committed by armed forces violated international law and covenants that state agents were obligated to respect. In many cases national constitutions and law were breached. The groups contended that until there was accountability for past abuses and an end to impunity, the military was a threat to the consolidation of democracy. Welcoming reports of truth commissions to investigate abuses, nongovernmental groups complained that negotiations ending conflicts and restoring civilian rule had

left impunity intact; thus they demanded prosecution of those who had committed abuses.

Even without transition agreements for dealing with past violations, there were often efforts to redefine or limit military roles by removing the responsibility for internal security and restricting the armed forces to defending against external threats. Sometimes this involved constitutional change, but everywhere it called for shifting doctrine from the national security focus of the Cold War.

Deep polarization was both an incentive for and obstacle to efforts to promote civil-military dialogue and human rights training. Many senior officers feared that reforms in military justice that transferred jurisdiction to civilian courts would expose their armed forces to ex post facto laws and vengeance by those same people whose efforts to overthrow the state had necessitated intervention. As an Argentine officer, General Osiris Villegas, put it in defending General Ramón Camps (who was accused of homicide, illegal deprivation of liberty, and torture of prisoners):

The real accused in this trial is the army, as an institution, in a political trial. Acts

of war are not brought to trial; they are not justiciable. Camps and other officers who defended their patria and its institutions are being tried under the terms of ex post facto laws and in the glare of the media. This allows the subversives who lost the war to determine their fate in collaboration with a government seeking revenge and political advantage rather than justice . . . with no effort by the same government to bring to justice the terrorists and subversives or to subject them to public exposure and repudiation, as has been done with the military officers.¹

It must also be said that some military leaders in the region regard U.S. efforts to promote institutional human rights reforms as hypocritical. They resent being blamed for the consequences of adopting policies that the United States promoted in the 1960s and 1970s. Some even perceive emphasis by Washington on democracy and human rights as part of an attempt to subordinate Latin American security concerns and advance U.S. interests.

Ironically some Latin American human rights organizations, particularly those representing the families of victims, also take a conspiratorial view of U.S. efforts to promote military justice and human rights training. They oppose any form of military-to-military collaboration until active and retired officers accused of abuses are brought to justice in civilian courts.

New Threats, Ancient Rights

If the transition to democracy has fostered a new emphasis on individual rights, it has also produced a far more complex array of challenges. The international and regional legal architecture for promoting and protecting human rights is based on obligations under international covenants to control actions of state agents. It was commonly argued that only states can commit human rights abuses because of their obligation to guarantee rights. In Latin America, however, non-state actors often pose the greatest threat to human rights. Drug cartels and organized crime have overwhelmed and subverted efforts to strengthen civilian law enforcement, and in the Andes,



Colombians during human rights training.

AP/Wide World Photos (Scott Dalton)

Caribbean, Central America, and Mexico, have become a parallel power to the state in controlling national territory. In this environment, demands for internationally recognized individual, civil, and political rights are increasingly countered by demands for harsher measures to restore order. Social cleansing actions and vigilante efforts to punish criminals are growing

the growing salience of human rights is a response to the changing global political environment

in frequency and popularity while support for democracy and human rights is eroding.

These new threats pose a dilemma for the United States in ending military involvement in internal security. The DOD counterdrug strategy has promoted an expanded role for armed forces in the region in combating drug trafficking. The danger is not only that increased military participation on the ground risks abuses, but that reliance on militaries as instruments of counterdrug strategy undercuts Washington in promoting reform to bolster civilian control and respect for human rights. That dilemma was underscored when Peruvian President Alberto Fujimori rejected calls from the United States, the

Organization of American States, and international observers to postpone the second round of elections until better guarantees could be assured. Asked whether he feared sanctions and a possible cutoff of aid from the United States, Fujimori replied, "What sanctions? Are we talking about counterdrug cooperation? That is a two-way proposition."

It may not be always possible to make human rights and democracy the top priority of U.S. strategy. There may be a conflict between strategic objectives and the concrete circumstances of particular countries. The task is to anticipate conflicts and minimize their consequences.

Future Implications

Although incorporating democracy and human rights objectives into hemispheric policies in the 1990s was a deliberate response to changes in overall national strategy, they do not represent merely the political whim of a particular administration. On the contrary, the growing salience of human rights in national policy is a response to the changing global political environment.

Over the last thirty years, the emergence of new laws, treaties, and precedents has created a body of international humanitarian law that provides standards and requirements for state actors in both peace and war. Among the most important are the Convention on the [Imprescriptibility] of Crimes of War and Crimes against Humanity and the Convention against Torture. In the Western Hemisphere, the American Declaration and the American Convention on Human Rights established an institutional framework for promoting and enforcing compliance with international norms.

Even though the United States has not ratified all international human rights instruments, new precedents call on all states to abide by the norms they define. While the United States cannot be forced to abide by decisions it opposes, the growing international consensus constitutes powerful moral and political pressure.

National law and policy have evolved partly in parallel with international law. Since enactment of the Harkin amendment in 1975, Congress has conditioned economic assistance on respect for human rights and has increasingly attached similar terms to security assistance. The Leahy amendment was extended from prohibiting security assistance to abusive militaries to a prohibition on assistance to specific units harboring alleged violators. These initiatives have fostered development of elaborate procedures to monitor and evaluate human rights performance in other countries.

Harmonizing objectives relating to democracy and human rights with other security goals in the Americas is a vital challenge. Past failures have sometimes fostered opposition to defense policies, limited options in significant ways, and also forced changes in strategic objectives. In addition, an expanding body of international humanitarian law in an increasingly globalized world is likely to require more formal and detailed attention to human rights. **JFQ**

NOTE

¹ See Brian Loveman, *For La Patria: Politics and the Armed Forces in Latin America* (Wilmington, Del.: Scholarly Resources, 1999). This paraphrases statements made by Osiris G. Villegas, *Testimonio de un alegato* (Buenos Aires: Compañía Impresora Argentina, 1990).

U.S. Southern Command



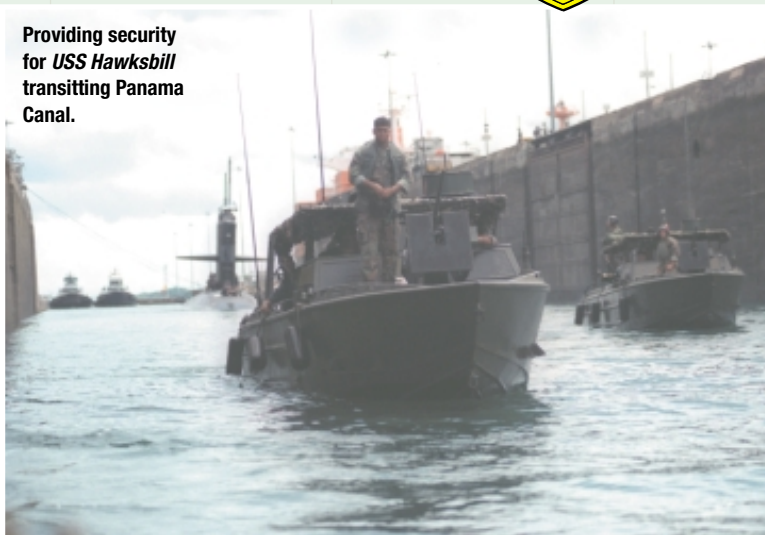
The SOUTHCOM area of responsibility (AOR) includes the landmass of Latin America south of Mexico, waters adjacent to Central and South America, the Caribbean Sea with its 13 island nations and European and U.S. Territories, the Gulf of Mexico, and a portion of the Atlantic Ocean. It encompasses 32 countries, 19 in South and Central America and 13 in the Caribbean, and covers 15.6 million square miles, a sixth of the world landmass assigned to regional unified commands.

Traditionally the countries of the area are divided into four subregions: Southern Cone (Argentina, Brazil, Chile, Paraguay, and Uruguay); Andean Ridge (Bolivia, Colombia, Peru, and Venezuela); Central America (Belize, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua); and Caribbean (Antigua and Barbuda, Barbados, Dominica, Dominican Republic, Grenada, Grenadines, Guyana, Haiti, Jamaica, St. Croix, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago). SOUTHCOM has responsibility for security assistance in Mexico although that country is outside its area of responsibility.

The SOUTHCOM mission is shaping the environment within the theater by conducting military-to-military engagement and counterdrug activities. The command promotes democracy, stability, and collective approaches to threats to regional security or U.S. interests while preparing to meet future hemispheric challenges. With its headquarters in Miami, Florida, SOUTHCOM has a total of 800 military personnel and 325 civilian employees. In addition, the command has both liaison officers and representatives from the Department of State, Drug Enforcement Administration, Coast Guard, Customs Service, and other Federal agencies.

JFQ

Providing security for *USS Hawksbill* transiting Panama Canal.



2nd Marine Division



U.S. Southern Command Area of Responsibility



USS Klakring navigating inter-Chilean waterway, Unitas '00.

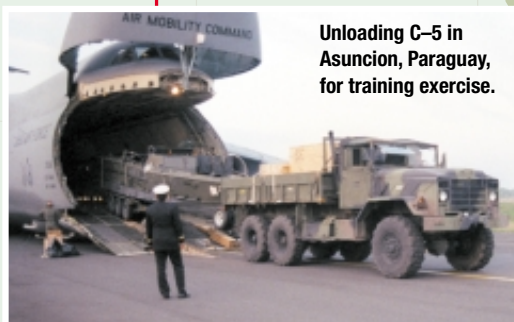
U.S. Navy (Corey Barker)

The geographic area of responsibility for the conduct of normal SOUTHCOM operations includes Central and South America and the Pacific and Atlantic Oceans from 92° West, east to 30° West, north to 8° North, west to the Guyana/Venezuela coastal border, and the Caribbean Sea and its island nations and European possessions, the Gulf of Mexico, and the Atlantic Ocean south of 28° North and west of 58° West.



UH-60 over Sula base camp near El Progreso, Honduras.

4th Combat Camera Squadron



Unloading C-5 in Asuncion, Paraguay, for training exercise.

2nd Marine Division Combat Camera Unit (Tyler J. Meake)

See the SOUTHCOM homepage (<http://www.southcom.mil/home>) for details on the area of responsibility, component commands, theater strategy, and other issues, or contact:

U.S. Southern Command
ATTN: Public Affairs Office
3511 NW 91st Avenue
Miami, Florida 33172-1217
Telephone: (305) 437-1213/
DSN 567-1213
Facsimile: (305) 437-1241
e-mail: uscpa@hd.southcom.mil